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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,763	04/13/2001	Hiroshi Isono	109246	3912

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EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,763

Applicant(s)

ISONO, HIROSHI

Examiner

Bradley T King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37, 42 is/are pending in the application.
- 4a) Of the above claim(s) 3-6 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-35 is/are allowed.
- 6) ☒ Claim(s) 1,2,7,8,13,14,16,18,19,22,24,36,37 and 42 is/are rejected.
- 7) ☒ Claim(s) 9-12,15,17,21 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the distribution control portion recited in claims 27-29, 31, and 33 has not been defined in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 42 recites "said pressurizing chambers". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2, 7-8, 13-14, 16, 18-19, 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 197 16 404.

DE 197 16 404 discloses all the limitations of the instant claims including: a master cylinder 1 including a housing and at least two pressurizing pistons (4a, 6a) which are fluid-tightly and slidably fitted in the housing and which cooperate with the housing to define at least two pressurizing chambers (4, 6) which are isolated from each other, and wherein a working fluid in each of the at least two pressurizing chambers is pressurized by an advancing movement of a corresponding one of the at least two pressurizing pistons, a hydraulically operable brake cylinder 3 for activating a brake, and a valve device 12 having a first state 12.2 in which the pressurized fluid is delivered from the two pressurizing chambers to the brake cylinder, and a second state 12.1 in which the pressurized fluid is delivered from only one of the two chambers.

Regarding claim 13, valves 12, 21 or 22 also functions as a cut-off valves.

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Regarding claim 22, assisting device 10 functions to boost pressure above that of the master cylinder.

Regarding claim 24, brake pressure control valve device 20 is disposed between the assisting device and the brake cylinder.

Claim 37 is rejected under 35 U.S.C. 102(e) as being anticipated by Oka et al (US#6196641).

Oka et al disclose all the limitations of the instant claim including; a master cylinder which is operatively connected to a manually operable brake operating member and which partially defines a pressurizing chamber; a stroke simulator connected to the pressurizing chamber; a simulator control valve operable to control an operating state of the stroke simulator; and a stroke control device 77 operable to restrict the flow of to the stroke simulator. See column 30, lines 28-32.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oka et al (US#6196641) in view of Sakai et al (US# 6007164).

Oka et al disclose a braking system including: a master cylinder including a pressurizing piston (31, 47) which is operatively connected to a manually operable

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brake operating member 18 and which defines a pressurizing chamber and a rear pressure chamber 41, a brake cylinder (28-29) connected to the pressurizing chamber, a master-cylinder cut-off valve 94 disposed between the assisting chamber and the pressurizing chamber, and a brake characteristic control device 73. Oka et al lack a diagnosing device. Sakai et al teach a diagnosing device which uses the operating state of a manual brake operating member and the master cylinder pressure to detect faults in the system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the diagnosing device of Sakai et al in the system of Oka et al to detect faults in the system, thereby increasing safety.

Allowable Subject Matter

Claims 25-35 are allowed.

Claim 42 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 9-12, 15, 17, 21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 4/30/03 have been fully considered but they are not persuasive.

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Regarding the specification rejection, it is maintained that the term "distribution ratio" has not been defined in the specification. While the disclosure describes a "ratio", no "distribution ratio control portion" has been defined.


Regarding DE 19716404, it is maintained the rejection is proper. Note figure 6 of the reference. When valve 12 is open, both chamber of the master cylinder are hydraulically connected to the wheel cylinder. When valve 12 is closed, only chamber 4 and the pump are connected. Further actuation of the pedal when valve 12 is closed requires that the fluid in chamber 4 be displaced to the wheel cylinder, as there is no other outlet for the fluid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BTK
August 11, 2003


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600